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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/322,663	05/28/1999	WILLIAM H. SHEPARD	05918/133001	8336

7590

09/26/2002

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EXAMINER

BEFUMO, JENNA LEIGH

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 09/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/322,663

Applicant(s)

SHEPARD ET AL.

Examiner

Jenna-Leigh Befumo

Art Unit

1771

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 September 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: 20.

Claim(s) rejected: 1-4, 6, 7, 9, 11, 13-19, 21 and 87-89.

Claim(s) withdrawn from consideration: 22-86.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

- Continuation of 2. NOTE: The proposed amendment adds new limitations which were not previously considered, i.e., the recitation drawn to the fibers or yarns in hook-engagable loop form and a distribution of straightened fibers, as well as the printing limitations in proposed claim 90, which would require a new search. Additionally, the proposed amendment would require further consideration due to the proposed changes to claims 2 and 87 as well as the proposed changes to the dependent claims which would be dependent on claims 1, 2, or 87 instead of just claim 1.

Continuation of 5. does NOT place the application in condition for allowance because: The Applicant's argues that printing a design onto the "ultra-thin hook-engagable material" would impair the hook engagability of the fabric and thus, it would not be obvious to one of ordinary skill to print on the hook-engagable material (Amendment, page 8). First, the Applicant argues that since the prior art which teaches similar light-weight hook-engagable materials does not teach printing said light-weight materials, it would not be obvious to one of ordinary skill in the art. While the prior art may not mention applying a printed pattern on the light-weight material, it also doesn't mention that a printed layer cannot be applied to it, or that a printed layer would impair the hook-engagability of the light-weight material. Thus, the lack of comment on the subject of printing the light-weight materials fails to provide strong evidence on the issue of whether or not it would be obvious to apply a design or image to the light-weight hook-engagable material. Therefore, additional prior art which demonstrated that it was obvious to apply images to hook-engagable loop surfaces for various end-uses was also applied in the rejections to demonstrate that it is well known in the art to apply images to hook-engagable loop surfaces and would be obvious to those of ordinary skill in the art. Second, the Applicant's arguments that general printing techniques would impair the hook-engagability are not commensurate in scope with the claims, since the Applicant fails to claim a specific hook-engagability, or even recite that the printed portions of the light-weight fabric are hook-engagable. In other words, a hook-engagable light-weight material which has been printed on only a portion of the surface would still be hook-engagable in the unprinted portions. Further, it is noted that if the hook-engagability of the light-weight, printed material is dependent upon a specific type of printing or dye, as argued by the Applicant, then the Applicant's arguments are not commensurate in scope with the claims, since the Applicant fails to limit the claims to a specific dye or printing process which would not impair the hook-engagability of the fabric. Also, it is noted that the Declaration which the Applicant refers to in Amendment C, has not been received, and hence, has not been considered. Finally, the Applicant's remaining arguments are drawn to the unentered amendment, and are not commensurate in scope with the pending claims.



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